ACT 144   S.B. NO. 368

A Bill for an Act Relating to Condominium Hotel Operators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-30, Hawaii Revised Statutes, is amended to read as follows:

"**§467-30 [Licenses] Registration, licenses and bonding required to operate condominium hotel.** (a) As used in this section, "condominium hotel" includes those apartments in a project as defined in section 514A-3 and subject to chapter 514A, [which may provide for customary hotel services including, but not limited to, front desk, restaurant, maid or linen service, bell service, or telephone switchboard.] which are used to provide transient lodging for periods of less than thirty days.

(b) Any sole proprietor, partnership, corporation, or other business entity [who, in the operation of a] operating a condominium hotel [engages in any activity set forth in the definitions of "real estate", "real estate broker", and "real estate salesman" in section 467-1 and] who [also] is not a custodian or caretaker as defined in section 467-1 shall:

(1)   Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission;

[(2)   Provide evidence of bonding to the real estate commission in an amount equal to $500 multiplied by the aggregate number of units covered by all of the condominium hotel contracts; except that the minimum of the bond required by this paragraph shall not be less than $20,000 nor greater than $100,000. The aggregate number of units excludes the number of units owned by the condominium hotel operator either as a sole proprietor, partnership or corporation. The bond shall protect the apartment owners against fraudulent or dishonest acts by the condominium hotel operator in handling the apartment owners' funds; and]

(2)[1]   Register on an annual basis as a condominium hotel operator. Registration information shall include but not be limited to the number of apartment units managed for others as well as the number of apartment units owned by the condominium hotel operator. Any operator failing to register with the commission shall be subject to a fine not exceeding an amount equal to $25 multiplied by the aggregate number of units

being utilized as a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation;

[(3) Register on a biennial basis as a condominium hotel operator. Registration information shall include, but not limited to, the number of apartment units managed for others as well as the number of apartment units owned by the condominium hotel operator. Any operator failing to register with the real estate commission within three months of June 8, 1988, shall be subject to a fine not exceeding an amount equal to $25 multiplied by the aggregate number of units being utilized as a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation.]

(3)[1] Provide evidence of fidelity bonding to the commission in an amount equal to $500 multiplied by the aggregate number of apartment units in the condominium hotel operation; provided that the minimum of the bond required by this paragraph shall not be less than $20,000 nor greater than $100,000. The aggregate number of units excludes the number of units owned by the condominium hotel operator either as a sole proprietor, partnership, or corporation or those units included in a registered time share plan managed by a registered time share plan manager. The bond shall protect the apartment owners against fraudulent or dishonest acts by the condominium hotel operator and by persons acting on behalf of the condominium hotel operator having custody and control of either the condominium hotel operator's or the apartment owner's funds, or both; and

(4) [A] Pay an initial and an annual registration fee [may be assessed by the commission. Such fees required by this subsection shall be] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91[. All], which fees [required by this subsection] shall be deposited with the director of finance to the credit of the general fund.

(c) [Neither] In the course of operating a condominium hotel, neither a real estate broker license nor a salesperson license shall be required of those employees of any sole proprietor, partnership, corporation, or other business entity performing or facilitating the delivery of customary hotel services [as described in this section].

(d) All persons having custody or control of the funds received by the condominium hotel operator shall be covered by a fidelity bond.

(e) As used in this section "operating a condominium hotel" includes the management of the apartment units in a condominium project for purposes of providing transient lodging, and includes the renting or leasing of condominium apartment units directly or indirectly from the apartment owners for purposes of providing transient lodging.

(f) Condominium hotel operators operating exclusively in condominium projects specifically authorized as hotels by county zoning and regulations and permitted by the condominium project's declaration and bylaws shall be exempt from the provisions of subsection (b)(1); provided that they shall apply to the commission for such exemption or exclusion on a form provided by the commission.

(g) Any apartment owner aggrieved by the fraudulent or dishonest acts of a condominium hotel operator or by the fraudulent or dishonest acts of any person acting on behalf of a condominium hotel operator shall seek recovery first from the fidelity bond required by this section and second, where the condominium hotel operator or the person acting on behalf of the condominium hotel operator is a real estate licensee, from the real estate recovery fund pursuant to section 467-18."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1989.)

Note

1. Should be underscored.